

REGULATION
OF THE MINISTER OF CULTURE AND NATIONAL HERITAGE
of 26 July 2018

on the basic statements of collective copyright and related rights management organisations and statements on the use of deductions for social, cultural and educational activity conducted by these organisations

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Pursuant to Article 92 of the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights (*Dziennik Ustaw*, item 1293), it is hereby ordered as follows:

§ 1. This regulation sets forth the detailed scope of the basic statements of collective copyright and related rights management organisations and statements on the use of deductions for social, cultural and educational activity conducted by these organisations, referred to in Article 91.2 (1) and (3) of the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights, hereinafter referred to as the “Act”.

§ 2. 1. In statements referred to in § 1, information and copies of documents are included as at the end of the reporting year of the collective copyright and related rights management organisation, hereinafter referred to as the “collective management organisation”, unless the regulation provides otherwise.

2. For the purposes of this regulation, the rights revenue collected by collective management organisations pursuant to Articles 20 and 20¹ of the Act of 4 February 1994 on Copyright and Related Rights (*Dziennik Ustaw* 2018, items 1191 and 1293) shall be considered as revenue from separate fields of exploitation.

§ 3. The basic statement of the collective management organisation, hereinafter referred to as the “basic statement”, consists of 6 chapters.

§ 4. Chapter 1 of the basic statement contains a brief summary of activities conducted by the collective management organisation in the reporting year.

§ 5. Chapter 2 of the basic statement contains copies of documents concerning the collective management organisation’s structure and its internal bodies, and the following information:

- 1) name, registered office and address of the collective management organisation;
- 2) name of the registry court which stores registration files of the collective management organisation, and the number of entry in the National Court Register;
- 3) settlement period which the collective management organisation adopted as its reporting year;
- 4) a copy of the statute of the collective management organisation, with an indication of amendments to that statute in the reporting year;
- 5) a description of the collective management organisation’s organisational structure, including its field branches, together with an information on changes to this structure in the reporting year;
- 6) addresses, the material and territorial scope of operation of fields branches of collective management organisations, if these branches carry out activities with regard to the collective management of copyright and related rights;
- 7) a copy of the rules and regulations or another internal regulation laying down the operating principles for the organisational unit responsible for exercising collective management, with an indication of the substance of amendments made to these documents in the reporting year;
- 8) full names of members of bodies of the collective management organisation who held functions in the reporting year, with the exclusion of the general assembly of members and the assembly of delegates;
- 9) the date on which the term of office of the collective management organisation’s internal bodies expires;
- 10) the number of members of the collective management organisation and changes in that number during the reporting year;
- 11) a description of the manner in which the collective management organisation ensured fair and balanced representation

of members who belong to different categories of rightholders within the meaning of Article 18.4 of the Act at the assembly of delegates, with the number of members belonging to each category specified;

- 12) the number of rightholders referred to in Article 17.4 of the Act;
- 13) an indication of committees, councils and other panels appointed by the collective management organisation, with their tasks as well as full names of their members specified;
- 14) an indication of entities established by the collective management organisation;
- 15) an indication of entities in which the collective management organisation is a member, with the date of joining specified;
- 16) an indication of partnerships or companies in which the collective management organisation is currently a partner or shareholder or was a partner or shareholder in the course of the reporting year;
- 17) an indication of international organisations in which the collective management organisation is a member, with the date of joining specified;
- 18) an indication of entities acquired by the collective management organisation, either directly or indirectly, within the meaning of Article 4 (4) of the Act of 16 February 2007 on the Protection of Competition and Consumers (*Dziennik Ustaw* 2018, items 798 and 650).

§ 6. Chapter 3 of the basic statement contains copies of documents concerning the activity conducted by the collective management organisation with regard to the acquisition of copyright and related right under collective management, and the following information:

- 1) the number of shareholders who concluded a collective management agreement with the collective management organisation, as at the end of the reporting year, excluding representation agreements;
- 2) the number of shareholders who concluded a collective management agreement with the collective management organisation in a given reporting year, excluding representation agreements;
- 3) the number of shareholders who terminated a collective management agreement with the collective management organisation in whole in a given reporting year, excluding representation agreements;
- 4) the number of members of the collective management organisation who concluded a collective management agreement with that organisation, as at the end of the reporting year;
- 5) the number of members of the collective management organisation who concluded a collective management agreement with that organisation in a given reporting year;
- 6) the number of members of the collective management organisation who terminated a collective management agreement in whole in a given reporting year;
- 7) the drafts of collective management agreements used by the collective management organisation as well as copies of rules and regulations and other internal acts laying down the procedure and principles for concluding these agreement;
- 8) the list of representation agreements concluded with collective management organisations, with an indication of the parties, subject matter, including covered fields of exploitation and types of works or objects of related rights, agreement execution date and its term;
- 9) an indication whether the collective management organisation collects the rights revenue also for rightholders who did not conclude a collective management agreement with that organisation, specifying legal grounds for the collection and each field of exploitation on which it is effected.

§ 7. Chapter 4 of the basic statement contains copies of documents concerning the activity conducted by the collective management organisation with regard to the collection of the rights revenue and the following information:

- 1) copies of approved tables of remuneration for the use of works or objects of related rights in force during the reporting year, together with copies of relevant rulings and their reasons;
- 2) copies of internal acts laying down remuneration rates for the use of works or objects of related rights as well as other standard remuneration rates applied on individual fields of exploitation, including discounts, with a synthetic statement of reasons for the application of these rates;
- 3) an indication of the fields of exploitation on which the collective management organisation exercised collective management in the reporting year, with regard to each type of works and objects of related rights;

- 4) an indication of the fields of exploitation on which the collective management organisation did not exercise collective management in the reporting year, with regard to each type of works and objects of related rights, specifying reasons for not exercising collective management, where applicable;
- 5) draft agreements on the use of works or objects of related rights or the collection of remuneration for such use, concluded with users in the fields of exploitation on which the collective management organisation exercised collective management in the reporting year and on which it intends to exercise collective management in the subsequent reporting year;
- 6) the number of users with whom the collective management organisation had agreements on the use of works or objects of related rights or the collection of remuneration for such use, as at the end of the reporting year, and the number of users with whom it concluded such agreements in a given reporting year;
- 7) the number of users with whom the collective management organisation had agreements on the use of works or objects of related rights or the collection of remuneration for such use in each field of exploitation, as at the end of the reporting year, and the number of users with whom it concluded such agreements in a given reporting year;
- 8) information on cases where the collective management organisation refused to conclude an agreement for the use of works or objects of related rights or the collection of remuneration for such use with a user, specifying the reason for refusal;
- 9) information on agreements referred to in Article 47.1 and 47.2 or 47.4 of the Act;
- 10) information whether the entity referred to in Article 47.3 of the Act has been appointed;
- 11) the amount of rights revenue collected in the reporting year, broken down by types of works or objects of related rights and fields of exploitation, including separately for remunerations referred to in Article 70.2¹ of the Act of 4 February 1994 on Copyright and Related Rights, expressed as net amounts;
- 12) the amount of rights revenue received in the reporting year from collective management organisations and foreign collective management organisations, broken down by types of works and objects of related rights, fields of exploitation and individual organisations, expressed as net amounts;
- 13) the amount of benefits derived from rights revenue referred to in subparagraphs (11) and (12) since it was earned, broken down by types of works or objects of related rights and fields of exploitation, expressed as net amounts.

§ 8. Chapter 5 of the basic statement contains copies of documents concerning the activity conducted by the collective management organisation with regard to the distribution and payment of rights revenue and the following information:

- 1) a copy of the repartition regulations, with an indication of amendments to that act in the reporting year;
- 2) a description of the manner in which rights revenues are managed until they are paid to rightholders, including purposes for which benefits referred to in 7 (13) are being allocated and amounts used for these purposes;
- 3) the total amount of distributed rights revenue, broken down by types of works or objects of related rights and fields of exploitation, specifying the total number of rightholders, expressed as gross amounts;
- 4) the total amount of rights revenue paid out, broken down by types of works or objects of related rights and fields of exploitation, specifying the total number of rightholders entitled to payments, expressed as gross amounts;
- 5) the frequency of payments referred to in subparagraph (4), broken down by types of works or objects of related rights and fields of exploitation;
- 6) the total amount of rights revenue collected, distributed but still not paid out, broken down by types of works or objects of related rights and fields of exploitation, specifying the year it was collected and the total number of rightholders covered by distribution, expressed as gross amounts;
- 7) the total amount of rights revenue still not distributed, broken down by types of works or objects of related rights and fields of exploitation, specifying the year it was collected and an explanation of reasons for non-distribution, expressed as gross amounts;
- 8) the total amount of rights revenue not paid out within the time limit referred to in Article 39.2 of the Act, with an explanation of reasons for not meeting this time limit, expressed as a gross amount;
- 9) the total amount of rights revenue referred to in Article 41 of the Act, the manner in which it has already been used and the planned use for the remaining part, and the amount of this revenue in the reporting year, expressed as a gross amount;

- 10) the amount of rights revenue paid collective management organisations and foreign collective management organisations, broken down by types of works and objects of related rights, fields of exploitation and individual organisations, expressed as gross amounts;
- 11) the amount of paid out rights revenue received from collective management organisations and foreign collective management organisations, broken down by types of works and objects of related rights, fields of exploitation and individual organisations, expressed as gross amounts.

§ 9. Chapter 6 of the basic statement contains the following information concerning the operating expenses borne by the collective management organisation, specifying the reason for increase in costs in relation to the previous reporting year, where applicable:

- 1) the amount of operating and financial expenses borne by the collective management organisation, broken down by types of works and objects of related rights, and in the case of indirect expenses where such breakdown cannot be made – an explanation of the method for the allocation of these expenses;
- 2) the amount of operating and financial expenses with regard to the management of rights, broken down by types of works and objects of related rights, and in the case of indirect expenses where such breakdown cannot be made expenses, including an indication of the amount of management fees deducted from rights revenue or compensated with regard to these expenses, and deducted or compensated with regard to benefits referred to in § 7 (13);
- 3) the amount of operating and financial expenses with regard to services other than the management of rights, but including social, cultural and educational activity;
- 4) the amount of funds used to cover expenses referred to in subparagraphs (1) to (3);
- 5) the amount and purpose of deductions from rights revenue and their legal basis under an internal regulation of the collective management organisation, broken down by types of works and objects of related rights and fields of exploitation;
- 6) a percentage ratio of expenses referred to in subparagraphs (2) and (3) to rights revenue in a given reporting period, expressed as net amounts, broken down by types of works and objects of related rights, and in the case of indirect expenses where such breakdown cannot be made – an explanation of the method for the allocation of these expenses;
- 7) the amount of deductions made to cover the costs of collecting, distributing and paying rights revenue, deductions from rights revenue made for the social, cultural or educational activity conducted by the organisation, and other deductions from rights revenue received from collective management organisations and foreign collective management organisations, broken down by types of works and objects of related rights, fields of exploitation and individual organisations;
- 8) the amount of deductions made to cover the costs of collection, distribution and payment, deductions from rights revenue made for the social, cultural or educational activity conducted by the organisation, and other deductions from rights revenue due to collective management organisations and foreign collective management organisations, broken down by types of works and objects of related rights, fields of exploitation and individual organisations;
- 9) the total amount of remuneration and other benefits paid out to persons who collect rights revenue for the collective management organisation under a power of attorney or civil law contracts;
- 10) the total amount of remuneration and other benefits in cash and in kind due on account of the function held, including retirement pension benefits and rights as well as severance packages, paid out or transferred to persons who manage the business of the collective management organisation in the previous reporting year.

§ 10. The basic statement is presented together with the list of resolutions adopted in the relevant reporting year by the bodies of the collective management organisation concerning collective management of copyright and related rights, specifying the following information: number, adoption date, title and subject matter of the resolution.

§ 11. 1. A statement on the use of deductions for social, cultural or educational activity conducted by the collective management organisation contains the following information concerning the use of these deductions, specified separately for each of these activities and indicating types of works and objects of related rights and fields of exploitation covered by these deductions:

- 1) the amount of deductions made;
- 2) the amount of funds used;
- 3) the list of actions taken, including the amounts allocated to specific actions;

4) the amount of costs connected with managing funds from deductions.

2. The statement referred to in paragraph 1 shall be provided together with:

- 1) a copy of the regulations referred to in Article 19 (5) of the Act;
- 2) a copy of the regulations referred to in Article 19 (7) of the Act.

§ 12. The statements referred to in § 1 may contain, in the form of an annex to a given chapter or an annex to the entire statement, as the case may be, and additional information and documents which, in the assessment of the relevant collective management organisation may prove useful to present the actual overview of activity in a given area.

§ 13. The Regulation shall enter into force on the day following the date of its publication.

Minister of Culture and National Heritage:

P. Gliński